

Application No. 10/632,288
Amendment dated November 4, 2005
Reply to Office Action of August 5, 2005

REMARKS

This amendment responds to the Office Action mailed August 5, 2005. Claims 1-31 remain pending in the application prior to this amendment, and claims 19-29 stand rejected. Claims 1-18, 30 and 31 were withdrawn from consideration in view of a restriction requirement. Claims 1-18, 30 and 31 are cancelled herein without prejudice or disclaimer, and claims 19, 22, 23, 25, 27 and 28 are amended. Applicants assert that the amended claims are in complete condition for allowance and respectfully request reconsideration in view of the following remarks.

Claims Rejected Under 35 U.S.C. §112

Claims 27-29 stand rejected under 35 U.S.C. §112, first paragraph, for various informalities related to the claim language. Claims 27 and 28 have now been amended to correct these informalities, and claim 27 has been rewritten in independent form. Claim 27 now properly recites the first, second and third polymeric materials. Accordingly, Applicants respectfully request that the rejections of claims 27-29 under 35 U.S.C. §112 be withdrawn.

Claims Rejected Under 35 U.S.C. §103

Claims 19-26 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,481,589 to Blomdahl et al. in view of U.S. Patent No. D485,757 to Roth et al. Claim 19 is the only independent claim of this rejected group, and claim 23 has been rewritten in independent form to include the features recited in originally-filed independent claim 19. Claim 23 has been further amended to clarify that the second

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polymeric material "substantially covers said first polymeric material." Support for this amendment to claim 23 can be found in the Application at paragraph 034, and with reference to FIG. 6. Accordingly, no new matter has been added by this amendment to claim 23.

Applicants respectfully traverse the rejection of claim 23 because Blomdahl '589 does not teach or suggest each and every element recited in claim 23, and Roth '757 fails to cure this deficiency. Specifically, Blomdahl '589 does not teach or suggest a closure formed from at least two polymeric materials wherein the first polymeric material provides structural strength to the closure, the second polymeric material provides an aesthetic feel to the closure, and wherein "said second polymeric material substantially covers said first polymeric material." Rather, the closure of Blomdahl '589 only has a second polymeric material disposed at discreet locations along the upper peripheral edge of the sidewall. Considerable surface area of the closure of Blomdahl '589, such as a majority of the skirt 32 and the deck 30, are not covered by the second polymeric material. Accordingly, Blomdahl '589 does not teach or suggest substantially covering the first polymeric material with the second polymeric material. Roth '757 is directed to a lid for a bottle, but does not teach or suggest forming the lid from two polymeric materials, or covering a first polymeric material with a second polymeric material. Roth '757, therefore, does not teach or suggest a modification of Blomdahl '589 that cures these deficiencies. Accordingly, Applicants respectfully request that the rejection of claim 23 over Blomdahl '589 in view of Roth '757 be withdrawn.

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Claim 24 depends from independent claim 23 and is therefore in condition for allowance for at least the reasons stated above for claim 23. Moreover, neither Blomdahl '589 nor Roth '757 teaches or suggests a closure as recited in claim 23 wherein "an area proximate said aperture is substantially free from said second polymeric material," as recited in claim 24. For at least this additional reason, Applicants assert that claim 24 is not taught or suggested by the references of record and respectfully request that the rejection of claim 24 be withdrawn.

Claim 19 has been amended herein to recite that the seal ring is formed by a core that is formed from the first polymeric material. Support for this amendment can be found in the application at paragraphs 032 and 035, and with reference to FIG. 3A. Accordingly, no new matter has been added. Applicants assert that this amendment to claim 19 overcomes the rejection based on Blomdahl '589 in view of Roth '757. Specifically, Blomdahl '589 does not teach or suggest a core formed from a first polymeric material and "wherein said core forms said seal ring," as recited in amended claim 19. Rather, the annular seal 50 of Blomdahl '589 is molded as a separate piece. (See Blomdahl '589 at col. 4, lines 41-45.) Alternatively, the annular seal may be omitted whereby the closure will seal directly to the top of the container (see Blomdahl '589 at col. 5, lines 9-12). Roth '757 does not teach or suggest a seal ring formed by a core of a closure, and therefore does not teach or suggest a modification of Blomdahl '589 that cures the deficiencies discussed above.

To further distinguish over Blomdahl '589 and Roth '757, claim 19 has been further amended to recite that the "core is formed with a number of ribs and intervening

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voids to provide the closure with varying thickness." Support for this amendment to claim 19 can be found in the Application with reference to paragraph 034 and FIG. 6. Accordingly, no new matter has been added. Neither Blomdahl '589, Roth '757, nor any other reference of record teaches or suggests such structure. The rib and void structure of the claimed closure addresses the problem of forming a permanently leak-proof seal, without a separate sealing gasket, in a closure of varying thickness (Application at paragraph 035). In order to form a permanently leak-proof seal, the dimensions of the sealing edge on the interior surface of the closure (shown as 48 in Fig. 3A) must form a substantially perfect match to the neck of the bottle. As is known in the art, this can be accomplished only when shrinkage, which occurs as plastic cools, is predictable. Inherently, shrinkage in a plastic piece of varying thickness is too unpredictable to form such a reliably tight seal. Therefore, the core of the present invention, which forms the leak-proof seal, is formed as a layer of substantially uniform thickness throughout, with ribs and intervening voids that are then later filled with a second polymeric material to create the varying thickness of the finished closure. The references of record do not appreciate the problem sought to be overcome by the inventive closure, and do not teach or suggest the claimed structure. For at least the reasons set forth above, Applicants respectfully request that the rejection of claim 19 be withdrawn.

Claims 20-22, 25 and 26 each depend from independent claim 19, and therefore include each and every feature recited in amended claim 19. Claim 22 has been amended to recite that the second polymeric material "is either polypropylene or thermoplastic elastomer." Support for this amendment can be found in the Application

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with reference to paragraphs 034 and 038. Accordingly, no new matter has been added by the amendment to claim 22. Claim 25 has been amended herein to correct a typographical error. Specifically, claim 25 has been amended to recite internal screw threads on the sidewall. Support for this amendment can be found in the Application at paragraph 032. Accordingly, no new matter has been added by the amendment to claim 25. Applicants assert that claims 20-22, 25 and 26 are therefore in condition for allowance for at least the reasons stated above for amended claim 19. Accordingly, Applicants respectfully request that the rejections of claims 20-22, 25 and 26 be withdrawn.

Conclusion

In view of the foregoing amendments to the claims and the remarks set forth herein, Applicants respectfully believe this case is in condition for allowance and respectfully request allowance of the pending claims. If the Examiner believes any issue requires further discussion, the Examiner is respectfully asked to telephone the undersigned attorney so that the matter may be promptly resolved. The Examiner's prompt attention to this matter is appreciated.

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Applicants are of the opinion that no additional fee is due as a result of this amendment. If any charges or credits are necessary to complete this communication, please apply them to Deposit Account No. 23-3000.

Respectfully submitted,

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